REMARKS

Applicant is in receipt of the Office Action mailed April 7, 2008. Reconsideration of the case is earnestly requested in light of the following remarks.

Section 112 Rejection

Claims 32-53 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Independent claims 32, 46, and 50 have been amended to recite in pertinent part, "a first node of the plurality of nodes initiating communication with each of the other nodes of the plurality of nodes..." Applicant respectfully submits that this overcomes the Section 112 rejection and requests removal of this rejection.

Section 101 Rejection

Claims 32-45 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. These claims have been amended to recite a computer-readable storage medium. Although the cited portion of the specification refers to a carrier medium, which is described as including storage media as well as signals, the amended claims 32-45 specifically recite a **storage medium**. Accordingly, these claims are believed to be statutory. Applicant thus respectfully requests removal of the Section 101 rejection.

Section 103 Rejection

Claims 32-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hacherl et al., U.S. Patent No. 5,832,225 (hereinafter "Hacherl") in view of Parham, U.S. Patent No. 7,035,922 (hereinafter "Parham"). Applicant respectfully traverses this rejection.

Claim 32 recites in pertinent part:

a first node of the plurality of nodes initiating communication with each of the other nodes of the plurality of nodes to attempt to synchronously update the replicas of the object stored on the other nodes, wherein the communication is successful for each node of a first subset of the other nodes and unsuccessful for each node of a second subset of the other nodes;

The Examiner asserts that Hacherl teaches the above-recited limitations. Applicant respectfully disagrees. Hacherl's system includes a plurality of network sites. Within each site, a group of servers are connected by a full-mesh topology. Servers in different sites are connected by intersite connections. (FIG. 1; Col. 8, lines 38-58). Replicas may be located on different servers in different sites. However, Hasherl teaches that, "The only sure intersite communication is via **asynchronous** mail messages that are low-bandwidth, and high-latency in terms of communication performance and should therefore be used sparingly." (Col. 4, lines 8-12). In contrast, claim 32 recites, "a first node of the plurality of nodes initiating communication with each of the other nodes of the plurality of nodes to attempt to **synchronously update the replicas of the object stored on the other nodes**". Hasherl does not teach that any attempt is made to synchronously update the replicas stored in remote sites, but instead teaches that the only sure intersite communication is via asynchronous mail messages.

Furthermore, Hasherl does not teach that any attempt is made to synchronously update the other replicas stored in the same site either. The Examiner cites Hasherl's teaching that all of the servers within a given site can communicate directly with each other. However, the fact that the servers within a site can communicate directly with each other says nothing about what type of replication scheme is used, and in particular, says nothing about whether the replication is synchronous or asynchronous. Even though the servers within a site can communicate directly with each other, an asynchronous update scheme may still be used. Hasherl does not teach anything regarding an attempt to synchronously update the replicas of the object stored on the other nodes, as recited in claim 32.

Hasherl also fails to teach the recited limitation of, "wherein the communication is... unsuccessful for each node of a second subset of the other nodes," in combination with the other limitations recited above. With respect to this limitation the Examiner cites Col. 3, lines 36-67. The cited portion pertains to replication information that is different on each server, e.g., a RepsTo list and a RepsFrom list. However, this does not teach anything about the recited limitation of the communication being unsuccessful for each node of a second subset of the other nodes.

Applicant also notes that Hasherl's invention is not primarily concerned with a replication scheme, but instead is concerned with the problem of setting up and maintaining replication topology information. See Col. 9, lines 1-7:

> The present invention deals with setting up and maintaining the "knowledge" (i.e., replication topology information) regarding replication connectivity and topology correctly so that the replication mechanism, _whatever it may be,_ operates properly. Those skilled in the art will recognize and appreciate that many replication schemes could be used in connection with this invention.

Thus, although a replication scheme is used in connection with Hasherl's invention, the invention is not the replication scheme itself. Hasherl's disclosure provides little detail as to what type of replication scheme is used, and in particular, does not teach that the replication scheme involves <u>a first node of the plurality of nodes initiating communication with each of the other nodes of the plurality of nodes to attempt to synchronously update the replicas of the object stored on the other nodes,</u> as recited in claim 32.

Applicant thus respectfully submits that claim 32, and the claims respectively dependent thereon, are patentably distinct over the cited art for at least the reasons set forth above. Inasmuch as the other independent claims recite similar limitations as those discussed above with respect to claim 32, Applicant respectfully submits that the other independent claims, and the claims dependent thereon, are also patentably distinct over the cited references.

Since the independent claims have been shown to be patentably distinct over the cited art, Applicant respectfully submits that the dependent claims are also patentably distinct for at least this reason. Applicant also respectfully submits that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

In light of the foregoing amendments and remarks, Applicant submits that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505\5760-19000.

Respectfully submitted,

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